IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7424 OF 2005

Manoj Anant Gaonkar Applicant

versus

The State of Maharashtra Respondent

Mr.Nusrat Shah with Mr.Agarwal i/by Daksha Shah for applicant.

Mr.K.V.Saste, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 28th November 2005

PC :

1. Heard Shri Shah for the applicant and Shri Saste for the respondent.

2. The applicant has been arrested in connection with CR No.119/2005 which is under investigation by the Economic Offences Wing of Greater Bombay CID.. The offences alleged are under sections 465, 467, 468, 471, 511 R/W 34 of IPC..

3. The grievance of Shri Shah appearing for the applicant is that the applicant has been arrested on 8th May 2005 and he is in custody since then.

Three applications for bail made before the Sessions Court, have been rejected. In the last order delivered on 15th September 2005 the Sessions Judge has recorded as under :-

> "... ... It is pertinent to note that admittedly the charge-sheet is filed on 3.8.2005 in 19th Court, Metropolitan Magistrate, Esplanade. There is no dispute that the additional charge-sheet can be filed under section 173(8) of Code of Criminal Procedure. Therefore, I asked the Investigating Officer how much time will be required to file the supplementary charge-sheet under section 173(8) of Code of Criminal Procedure. Investigating Officer Mr.Pawar submitted that one month will be required."

4. In the light of the above, the Sessions Judge not only directed expeditious disposal of the case but further ordered that a progress report be filed in the first week of every month through the Chief Metropolitan Magistrate till the disposal of the case.

5. In the present application, a serious grievance is made that time sought by the investigating authority before the Sessions Judge has lapsed long time back and the trial also is not progressing substantially. The applicant is languishing in jail. The applicant has a family consisting of his wife, old parents and children.

This is a case where all investigations are complete, documents have been seized and statements are recorded. In these circumstances, the applicant is entitled to be enlarged on bail.

6. In my view, appropriate course would be to permit the applicant to make a fresh application for bail before the Sessions Court and point out the aforesaid aspects. I enquired with Shri Saste about the progress in the further investigations. He states that some more time be granted to complete the same. In my view, these are not satisfactory state of affairs at all. This is a matter where not only the Sessions Court but this Court has repeatedly been told that further investigations are in progress. The complaint has been filed in May 2005 and investigations have been made over to the CID (State CID - Economic Offences Wing). Considering the fact that allegations are of fraud and forgery in the Secretariat of the Legislative Assembly, the investigating authority ought to have acted expeditiously.

7. In the light of the aforesaid, it is directed that in the event the investigations are not completed within a period of three weeks from

today and appropriate report is not filed before the Sessions Court, the applicant shall be entitled to apply for being released/enlarged on bail and the Sessions Court would then consider this application uninfluenced by any orders passed on the earlier bail applications and on merits as well as in accordance with law. Needless to state that the Sessions Court shall not be influenced by the observations made in this order. This order is also passed because Shri Shah brings to my notice that the co-accused in this case has been released on bail on 11th June 2005.

(S.C.DHARMADHIKARI, J.)